

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

CYNTHIA TREVINO	§	
Petitioner/Plaintiff	§	
	§	
v.	§	
	§	Civil No. B-07-218
CONDOLEEZZA RICE, Secretary of State,	§	
TIMOTHY M. WIESNET, Regional Director,	§	
HOUSTON PASSPORT AGENCY,	§	
MICHAEL CHERTOFF, Secretary,	§	
Department of Homeland Security, and	§	
UNITED STATES OF AMERICA	§	
Respondents/Defendants	§	

ANSWER TO THE COMPLAINT

CONDOLEEZZA RICE, Secretary of State, TIMOTHY M. WIESNET, Regional Director, HOUSTON PASSPORT AGENCY, MICHAEL CHERTOFF, Secretary, Department of Homeland Security, and UNITED STATES OF AMERICA (“Defendants”), by and through, DONALD J. DeGABRIELLE, JR., United States Attorney for the Southern District of Texas, files this Answer to Plaintiff’s Complaint and would respectfully show the Court as follows:

Preliminary Statement

This paragraph is a statement of plaintiff’s case to which no reply is required. To the extent that a reply is required, admit that jurisdiction lies under 8 U.S.C. § 1503 for a declaratory judgment under 28 U.S.C. § 2201, otherwise deny.

Jurisdiction and Venue

1. This paragraph contains legal arguments to which no reply is required. To the extent that a reply might be deemed required, admit that jurisdiction lies under 8 U.S.C. § 1503 for a declaratory judgment under 28 U.S.C. § 2201, otherwise deny.

2. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

3. This paragraph contains legal arguments to which no reply is required. To the extent that a reply might be deemed required, Deny.

The Parties

4. Deny that Petitioner Cynthia Trevino is a United States Citizen. Deny that she was born in Brownsville, Texas on April 12, 1982.

5. Admit that Condoleezza Rice is the duly appointed Secretary of State of the United States. Admit that Michael Chertoff is the Secretary of the Department of Homeland Security.

Facts

6. Deny that Plaintiff was born in Brownsville Texas on April 12, 1982. Deny that her birth was assisted by midwife Olivia Berrera Salazar. Defendants lacks knowledge or information sufficient to admit or deny the remainder of the allegations contained in this paragraph.

7. Deny that Olivia Berrera Salazar attended plaintiff's birth. Assert that Olivia Berrera Salazar falsely registered plaintiff's birth as April 12, 1982, in Brownsville Texas. Defendants lack knowledge or information sufficient to admit or deny the remainder of the allegations contained in this paragraph.

8. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

9. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

10. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

11. Admit plaintiff's passport application was denied by letter dated February 14, 2007, signed by Timothy Wiesnet. Defendants lack knowledge or information sufficient to admit or deny the remainder of the allegations contained in this paragraph.

12. Admit that the Department of State has possession of an affidavit executed by Olivia Berrera Salazar, dated September 27, 1984, admitting that she falsely registered plaintiff's birth. Defendants lack knowledge or information sufficient to admit or deny the remainder of the allegations contained in this paragraph.

13. Defendants lack knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

Writ of Habeas Corpus

This paragraph contains legal arguments to which no reply is required. To the extent that a reply might be deemed required, Deny.

Declaratory Judgment

This paragraph contains legal arguments to which no reply is required. To the extent that a reply might be deemed required, Deny.

Administrative Procedure Act

This paragraph contains legal arguments to which no reply is required. To the extent that a reply might be deemed required, Deny.

Prayer for Relief

Defendants deny this paragraph and deny plaintiff is entitled to any relief.

WHEREFORE, having fully answered, Defendants pray that Plaintiff's claim for relief be dismissed, and for such other and further relief to which Defendants shows themselves to be entitled.

Respectfully submitted,

DONALD J. DeGABRIELLE, JR.
UNITED STATES ATTORNEY

/s/Rene Carlo Benavides
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CERTIFICATE OF SERVICE

I hereby certify that a true and a correct copy of the foregoing Defendants' Answer to the Complaint was mailed via First-Class Mail and/or e-mailed to the following:

Elisabeth Lisa Brodyaga
Attorney at Law
17891 Landrum Park Road
San Benito, Texas 78586
email: lisabrodyaga@aol.com

on this the 7 day of March, 2008.

/s/Rene Carlo Benavides
RENE BENAVIDES
Assistant United States Attorney